HIGH COURT OF UTTARANCHAL AT NAINITAL

Bail Application No. 1220 of 2006

CRIMINAL SIDE

Arjun s/o Kishan Lal R/o village Kharakpur,
Devipura, P.S. Kashipur, District U.S. Nagar
....Accused/Applicant

Versus

State of Uttaranchal ..... Opposite Party

Case Crime No. 2840 of 2006
Under Section 376 I.P.C.
Police Station Kashipur, District U.S. Nagar

Dated: 22.12.2006

By the Court

Hon'ble Rajesh Tandon, J.

Heard Sri D.C.S. Rawat, Advocate for the applicant and the A.G.A. for the prosecution.

Accused applicant has applied for bail in case crime No. 2840 of 2006 under section 376 I.P.C. Police Station, Kakshipur, District Udham Singh Nagar. F.I.R. has been lodged against three accused persons Anuj, Arjun and Rajan alias Raj for the offence of rape punishable under section 376 I.P.C. According to the prosecution, the accused persons have committed rape on the person of Km. Kiran.

Counsel for the applicant has submitted that the prosecutrix in her statement under section 161 Cr.P.C. has

stated that she loves Anuj and she has gone with him on her free will. She has also denied that rape was committed by Anuj or his colleagues on her person. Statement of the prosecutrix was also recorded under section 164 Cr.P.C. before the Magistrate, where the prosecutrix has disowned her statement under section 161 Cr.P.C. and alleged that Anuj, Arjun and Rajan have committed rape on her person.

Accused applicant has filed supplementary affidavit and filed affidavit of the prosecutrix. A perusal of the affidavit of Km. Kiran shows that she has contradicted her earlier statement under section 164 Cr.P.C. and stated that she gave such statement under the influence of police and her parents.

Co-accused Anuj has already been released on bail vide order dated 21.11.2006 in Bail application no. 651 of 2006.

Without expressing anything on the merit of the case and taking into consideration the facts and circumstances of the case it is a fit case for bail.

Let the accused applicant be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of the Magistrate concerned.

Rajesh Tandon, J.

Dated:22.12.2006
*Dhyani